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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(COMM) 775/2017

SR EDUCATIONAL & WELFARE TRUST Plaintiff

Through Mr. Manish Singhal, Advocate

versus

DELHI INSTITUTE OF TECHNOLOGY

MANAGEMENT & RESEARCH Defendant

Through Ms. Shreya Sharma, Proxy Counsel
for Ms. Renuka Arora, Advocate**CORAM:****HON'BLE MR. JUSTICE MANMOHAN****ORDER**

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11.03.2019**I.A. 709/2017**

Present application has been filed by the defendant under Order 39 Rule 4 CPC on the ground that its mark has been registered in 2016.

However, learned counsel for the plaintiff/non applicant states that the registration is in favour of a Society and not in favour of the defendant and that Society is in no way connected with the defendant.

Keeping in view the aforesaid controversy as well as the fact that the injunction has been in subsistence since 3rd June, 2013 and that the parties are in the midst of cross examination of PW-1, present application is dismissed.

I.A. 775/2017

Present application has been filed by the defendant to add a preliminary objection that action for infringement is not maintainable as its mark is registered.

However, learned counsel for plaintiff/non applicant states that the registration is not in defendant's favour.

Keeping in view the fact that a liberal approach has to be adopted with regard to the amendment application, present application is allowed, without prejudice to the rights and contentions of the plaintiff and subject to just exceptions. Plaintiff is permitted to take all its pleas and defences in its amended replication.

CS(COMM) 775/2017 & CCP(O) 60/2015

The defendant is directed to file an amended written statement within one week. Plaintiff is directed to file an amended replication within two weeks thereafter.

At this stage, learned counsel for parties state that the matter be referred to Delhi High Court Mediation and Conciliation Centre (for short "Centre").

Accordingly, with consent of parties, matter is referred to the Centre. Parties are directed to appear before the Centre on 4th April, 2019 at 4.00 p.m.

List on 16th May, 2019 before the Joint Registrar for further proceedings.

MANMOHAN, J

MARCH 11, 2019

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